

**Delta Plan Amendment for Conveyance, Storage Systems,  
and the Operation of Both  
FREQUENTLY ASKED QUESTIONS**

This attachment contains responses to frequently asked questions (FAQs) about the discussion draft Delta Plan amendment addressing water conveyance, storage systems, and the operation of both (Delta Plan CSO amendment).

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## **FAQs**

### **1. Does a conveyance, storage, or operations project need to demonstrate consistency with the Delta Plan today?**

Any project that meets the definition of a covered action, including conveyance, storage, or operations projects, needs to demonstrate consistency with the Delta Plan. Covered actions, as defined under Water Code section 85057.5(a)), include "...a plan, program, or project as defined pursuant to section 21065 of the Public Resources Code that meets all of the following conditions:

1. Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh;
2. Will be carried out, approved, or funded by the state or a local public agency;
3. Is covered by one or more provisions of the Delta Plan;
4. Will have a significant impact on the achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta."

Once a State of California (State) or local agency has determined that their plan, program, or project is a covered action under the Delta Plan, they are required to submit a written certification to the Council, with detailed findings, demonstrating that the covered action is consistent with the Delta Plan (Water Code section 85225 et seq.), per Delta Plan regulatory policy GP1.

### **2. What kind of regulations may apply to conveyance, storage, or operations projects that are covered actions?**

Various Delta Plan regulatory policies may apply to storage, conveyance, or operations projects and actions that meet the definition of a covered action. These include the following:

- **GP1 Detailed Findings to Establish Consistency with the Delta Plan:** This policy calls for use of best available science, implementation of protective mitigation measures for all ecosystem and water management projects in the Delta, and appropriate adaptive management.
- **WR P1 Reduce Reliance on the Delta through Improved Regional Water Self-Reliance:** This policy prohibits the export, transfer, or use of Delta water supplies if an agency has failed to adequately contribute to reduced reliance on the Delta and improved regional self-reliance, and the failure has caused the need for export/transfer/use, and the export or use causes significant environmental harm in the Delta. It also describes the requirements for an agency that uses Delta water to be consistent with the Delta Plan, including completion of urban or agricultural water

management plans, and identification and implementation of actions to reduce reliance on the Delta and improve regional self-reliance that are consistent with those water management plans.

- **WR P2 Transparency in Water Contracting:** This policy requires the contracting process for water from the SWP and/or the CVP done in a publicly transparent manner consistent with applicable policies of the California Department of Water Resources and the U.S. Bureau of Reclamation.
- **ER P1 Delta Flow Objectives:** This policy requires use of the State Water Resources Control Board's Bay-Delta Water Quality Control Plan flow objectives to determine consistency with the Delta Plan.
- **ER P3 Protect Opportunities to Restore Habitat:** This policy calls for avoiding or mitigating significant adverse impacts to opportunities to restore habitats in six designated priority habitat restoration areas, including the design/implementation of projects such that they will not preclude or interfere with the ability to restore habitat in these areas.
- **DP P2 Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats:** This policy states that water management facility infrastructure must be sited to avoid or reduce conflicts with existing uses, or those uses described in general plans.

The Delta Plan also includes recommendations that are intended to influence projects or plans, but are not legal requirements. All projects are encouraged to be consistent with applicable Delta Plan recommendations. Relevant Delta Plan recommendations for conveyance, storage, or operations projects include the following:

- WR R9 Update Bulletin 118, California's Groundwater Plan
- WR R10 Implement Groundwater Management Plans in Areas that Receive Water from the Delta Watershed
- WR R11 Recover and Manage Critically Overdrafted Groundwater Basins
- WR R14 Identify Near-term Opportunities for Storage, Use, and Water Transfer Projects
- WR R18 California Water Plan
- WR R19 Financial Needs Assessment
- ER R1 Update Delta Flow Objectives
- DP R4 Buy Rights of Way from Willing Sellers When Feasible
- WQ R1 Protect Beneficial Uses
- WQ R2 Identify Covered Action Impacts
- WQ R3 Special Water Quality Protections for the Delta

- WQ R5 Complete North Bay Aqueduct Alternative Intake Project
- WQ R6 Protect Groundwater Beneficial Uses
- WQ R7 Participation in Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) Initiative
- WQ R8 Completion of Regulatory Processes, Research, and Monitoring for Water Quality Improvement
- WQ R9 Implement Delta Regional Monitoring Program
- WQ R10 Evaluate Wastewater Recycling, Reuse, or Treatment

In addition to the regulatory policies and recommendations included in the Delta Plan, existing federal, State, and local laws and policies remain applicable to projects that would be considered covered actions. Federal and State regulatory agencies, including the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, National Marine Fisheries Service, California Department of Fish and Wildlife, and State Water Resources Control Board, play important roles in regulating projects in the Delta.

3. **With adoption of a Delta Plan CSO amendment, how would the consistency determination process for covered actions change?**

The draft Delta Plan CSO amendment would not change the consistency determination process for projects that meet the definition of a covered action.

The Delta Plan currently includes 14 policies and 73 recommendations:

- **Regulatory Policies** are legal, regulatory requirements that anyone undertaking a significant project in the Delta must meet. Policies are part of the consistency determination process under Water Code section 85225 and appeal process under Water Code sections 85225.5 et seq.
- **Recommendations** call attention to tasks being done or to be done by others. Recommendations seek to influence projects or plans, but are not legal requirements. All actions are encouraged to be consistent with applicable Delta Plan recommendations.

The draft Delta Plan CSO amendment would add new recommendations to the Delta Plan. These recommendations are intended to influence and improve conveyance, storage, and operations plans and projects to help achieve the coequal goals. As recommendations, they would not affect an agency's determination of consistency with the Delta Plan.

Council and staff work to implement the regulatory policies and recommendations of the Delta Plan, in coordination with the Delta Plan Interagency Implementation Committee.

**4. How are the Council's 19 Principles reflected in the draft Delta Plan CSO amendment?**

The *19 Principles for Water Conveyance in the Delta, Storage Systems, and for the Operation of Both to Achieve the Coequal Goals* approved by the Council in November 2015 were used as guidance by staff for development of the draft Delta Plan CSO amendment. Collectively, the recommendations included in the draft Delta Plan CSO amendment address each of the 19 Principles. Council staff conducted a detailed review to ensure that all 19 Principles were reflected in the amendment. Because of the interrelationships of each of the conveyance, storage, and operations principles, each recommendation either addresses each principle in whole, in part, or in combination with other principle(s).

**5. How does the amendment promote options?**

Per Water Code section 85304, the Delta Plan:

“... shall promote options for new and improved infrastructure relating to the water conveyance in the Delta, storage systems, and for the operation of both to achieve the coequal goals.”

The draft Delta Plan CSO amendment promotes options for new and improved infrastructure relating to water conveyance in the Delta, storage systems, and the operation of both to achieve the coequal goals. Options promoted include the design, implementation, and operation of new and improved water conveyance infrastructure and new or expanded water storage that are consistent with criteria in the draft amendment. In developing the draft Delta Plan CSO amendment, the Council is seeking to influence and integrate conveyance and storage projects, and their operations, in a way that helps achieve the coequal goals.

**6. Is the amendment promoting WaterFix?**

The draft Delta Plan CSO amendment is not promoting WaterFix or other specific projects. One of the conveyance options promoted by the Council is a dual conveyance option – one that features a combination of new, below-ground conveyance along with improved through-Delta conveyance – for conveyance of SWP and CVP water supplies from the Sacramento River to the southern Delta. The amendment also promotes other conveyance options, such as new or improved conveyance facilities within the Delta, within the Delta watershed, and within areas of the State that receive water exported from the Delta: new intake and conveyance for water supplied to the North Bay Area; new conveyance to better leverage existing central Delta intake facilities; and improvements to through-Delta channels and water management facilities. None of the options is intended to have priority over the others, and all are believed to provide components of operational flexibility and capacity needed to support achievement of the coequal goals.

Options promoted in the draft Delta Plan CSO amendment meet the direction contained in Water Code section 85304.

The Council is not an implementing or funding agency for new infrastructure projects, and is not engaged in project development, or construction. It is the role of project proponents (those implementing projects) to analyze and evaluate projects to determine appropriate size, location, and characteristics of proposed projects, demonstrate the project is consistent with the Delta Plan (if the project meets the definition of a covered action), and complete required environmental reviews and approvals.

**7. Would the draft Delta Plan CSO amendment influence current proposals for new and improved conveyance and storage?**

Yes. With the draft Delta Plan CSO amendment, the Council is seeking to improve plans and projects for storage, conveyance, and operations to further the achievement of the coequal goals.

As noted in FAQ #2, the Delta Plan already includes various policies and recommendations that could apply to conveyance, storage, or operations projects that meet the definition of a covered action. The draft Delta Plan CSO amendment would add new recommendations to the Delta Plan. The draft Delta Plan CSO amendment describes the types and characteristics of infrastructure that could contribute to the coequal goals (though it does not identify specific projects), and also identifies recommended criteria for project proponents to use in evaluating and developing new conveyance and storage projects. For example, the draft amendment encourages new or expanded groundwater storage projects that promote conjunctive management of surface water and groundwater supplies; it also recommends that new projects develop operating plans to meet specific and measurable targets and objectives, and incorporate adaptive management.

**8. How much storage is being promoted? What size of conveyance?**

The options promoted in the draft Delta Plan CSO amendment describe the types and characteristics of infrastructure that could contribute to the coequal goals, as well as outcomes for projects. The draft Delta Plan CSO amendment also identifies recommended criteria for project proponents to use in evaluating and developing new conveyance and storage projects. However, the draft does not identify specific projects or project sizes.

Options promoted in the draft Delta Plan CSO amendment meet the direction contained in Water Code section 85304.

The Council is not an implementing or funding agency for new infrastructure projects, and is not engaged in project development, or construction. It is the role of project proponents (those implementing projects) to analyze and evaluate projects to determine appropriate size, location, and characteristics of proposed

projects, demonstrate the project is consistent with the Delta Plan (if the project meets the definition of a covered action), and complete required environmental reviews and approvals.

**9. Is the draft amendment promoting improvement to through-Delta conveyance of SWP and CVP water supplies?**

Yes, the Council is recommending improvements to existing through-Delta conveyance to protect fish, promote operational flexibility, protect water quality, and reduce conflicts with the ecosystem. The draft Delta Plan CSO amendment includes recommendations for through-Delta conveyance improvements. Recommendations include channel improvements consistent with the Delta Plan and other near-term actions or infrastructure that could contribute to reducing fish losses near Clifton Court Forebay associated with pumping operations at the Banks Pumping Plant and Jones Pumping Plant.

Draft Delta Plan CSO amendment recommendations are consistent with the proposed Delta Levees Investment Strategy, which identifies high priority areas for levee improvements. Priorities for levee improvements include areas where the quality of water supplies is at risk, and stockpiling material for emergency repairs of levees on the water export corridors along Middle and Old Rivers or at sites serving local reclamation districts that can complement these levee improvements.

**10. Do projected project costs and benefits influence the consideration of options for conveyance, storage, and operations?**

It is the role of project proponents (those implementing projects) to determine whether the benefits of a project warrant the costs and to make decisions on whether to implement a project.

As it pertains to new Delta conveyance facilities, State law includes provisions for funding implementation of new Delta conveyance facilities (Water Code section 85089):

“Construction of a new Delta conveyance facility shall not be initiated until the persons or entities that contract to receive water from the SWP and the federal CVP or a joint powers authority representing those entities have made arrangements or entered into contracts to pay for both of the following:

(a) The costs of the environmental review, planning, design, construction, and mitigation, including mitigation required pursuant to Division 13 (commencing with Section 21000 of the Public Resources Code), required for the construction, operation, and maintenance of any new Delta water conveyance facility.

(b) Full mitigation of property tax or assessments levied by local governments or special districts for land used in the construction, location, mitigation, or operation of new Delta conveyance facilities.”

The draft Delta Plan CSO amendment promotes options to achieve the coequal goals and identifies recommended criteria for project proponents to use in evaluating and developing new conveyance and storage projects. One of these recommendations is that projects should be cost effective. This is consistent with the 19 Principles approved by the Council in 2015 to guide development of the Delta Plan CSO amendment, which recognizes that “new or expanded storage projects should be cost effective.”

State and local agencies (project proponents) have varying policies and guidance related to the evaluation of benefits and costs. Projects that receive federal funding are required to conduct a cost-benefit analysis consistent with guidance contained in the Principles, Requirements, and Guidelines for Water and Land Resources Implementation Studies (PR&G). The PR&G govern how federal agencies evaluate proposed water resource development projects through a comprehensive approach that maximizes economic, environmental, and recreational benefits.

Specific to new or modified conveyance facilities in the Delta, prior cost-benefit analyses on Bay Delta Conservation Plan and WaterFix have varied in their findings and conclusions. The California Department of Water Resources has stated that it will recalculate benefits and costs for various groups once the cost allocation and financing plan is complete. Pending decisions regarding project size and operations make precise projections difficult.

Projects recommended to Congress for federal construction authorization require a feasibility study—an evaluation of the technical, economic, and financial feasibility of a proposed project based on detailed investigations requiring the acquisition of primary data, and including an assessment of environmental impacts as required by the National Environmental Policy Act of 1969 (NEPA).

**11. How is reduced reliance on the Delta or regional self-reliance promoted in the Delta Plan and the draft Delta Plan CSO amendment?**

Reduced reliance on the Delta and increasing regional self-reliance are State law and central components of the Delta Plan. The Water Code addresses reduced reliance on the Delta and regional self-reliance in section 85021:

“The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water

technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.”

The Delta Plan includes several recommendations related to reduced reliance on the Delta and regional self-reliance, along with regulatory policy, WR P1 – Reduce Reliance on the Delta through Improved Regional Water Self-Reliance. This regulatory policy includes several provisions for reducing reliance on the Delta and improving regional self-reliance:

- (a) Water shall not be exported from, transferred through, or used in the Delta if all of the following apply:
  - (1) One or more water suppliers that would receive water as a result of the export, transfer, or use have failed to adequately contribute to reduced reliance on the Delta and improved regional self-reliance consistent with all of the requirements listed in paragraph (1) of subsection (c);
  - (2) That failure has significantly caused the need for the export, transfer, or use; and
  - (3) The export, transfer, or use would have a significant adverse environmental impact in the Delta.

The draft Delta Plan CSO amendment includes new recommendations that could further contribute to reduced reliance on the Delta and improved regional self-reliance. Additionally, refinements to Delta Plan performance measures are underway that will revise targets, metrics, and baseline conditions associated with providing a more reliable water supply for California, including: urban water conservation, storm water runoff, reduced reliance on Delta water supplies, agricultural groundwater management, and timing of Delta exports to protect the ecosystem.

## **12. What about the potential impacts to Delta communities from infrastructure construction in the Delta?**

Potential impacts to Delta communities are currently regulated by the Delta Plan and other existing laws, and are considered under California Environment Quality Act (CEQA)/NEPA on a project-specific basis.

A conveyance or storage infrastructure project constructed in the Delta would meet the definition of a covered action and must demonstrate consistency with the Delta Plan. The projects would need to be implemented in accordance with detailed project implementation plans that are developed in cooperation with affected communities and stakeholders to mitigate adverse environmental effects consistent with Delta Plan Policy GP 1, and avoid or reduce conflicts with existing or planned land uses consistent with Delta Plan Policy DP P2:

- **GP 1** (Code of Regulations Title 23, section 5002), *Detailed Findings to Establish Consistency with the Delta Plan*, states the following:

“(b) Certifications of consistency must include detailed findings that address each of the following requirements:

... (2) Covered actions not exempt from CEQA (California E must include applicable feasible mitigation measures identified in the Delta Plan’s Program EIR (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective...”

- **DP P2** (Code of Regulations Title 23, section 5011), *Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats*, states the following:

“(a) Water management facilities, ecosystem restoration, and flood management infrastructure must be sited to avoid or reduce conflicts with existing uses or those uses described or depicted in city and county general plans for their jurisdictions or spheres of influence when feasible, considering comments from local agencies and the Delta Protection Commission... Measures to mitigate conflicts with adjacent uses may include, but are not limited to, buffers to prevent adverse effects on adjacent farmland.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers proposed actions that involve the siting of water management facilities, ecosystem restoration, and flood management infrastructure.”

The draft Delta Plan CSO amendment, if approved, promotes several options to maintain and protect water quality for in-Delta users, and also includes provisions for protecting Delta communities:

“... New and improved Delta conveyance infrastructure should be based on an evaluation of alternatives for conveyance of CVP and SWP water supplies from the Sacramento River to the South Delta that includes... potential effects of each Delta conveyance alternative on the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.”

The Council has a strong record advocating for the Delta’s unique agricultural, recreational, and cultural resources. The Council’s detailed comments letters submitted on projects in the Delta such as on California WaterFix, various ecosystem restoration projects, and others, provide specific detail and methods to avoid or reduce impacts on Delta communities.

The Council also coordinates with the Delta Protection Commission (DPC) on how to best protect Delta. The Delta Protection Act states that the DPC is the appropriate agency to identify and provide recommendations to the Council on

methods of preserving the Delta as an evolving place. It also outlines a process for the DPC to review and provide comments and recommendations to the Council on any significant project or proposed project within the scope of the Delta Plan that may affect the unique values of the Delta (Public Resources Code section 29773(a)).

**13. Are there additional opportunities for public input and comment on the draft Delta Plan CSO amendment?**

Your comments are important to each member of the Council and staff. Council meetings are a forum for providing public input on the draft Delta Plan CSO amendment, as well as all Council activities. Comments received by regular mail or email before noon the day prior to a Council meeting will be distributed to members in advance of the next meeting and posted on the Council's website. Comments received after noon, or hand delivered at the meeting, will be distributed to the members at the start of the meeting or when received, and posted to the website after the meeting.

In addition, the draft Delta Plan CSO amendment will be evaluated later this year through a Program Environmental Impact Report that will be released for public review and comment during Summer-Fall 2017. Public comments are also welcome to be submitted to Council via the Council's web site:

<http://deltacouncil.ca.gov/contact-us>